

SRC Key Initiatives

Getting Washington Back to Work

Final 2004



Water Rights

“Agriculture and growing communities need a dependable supply of water. That should be a realistic goal in a state that is second nationally only to Alaska in the amount of fresh water.”

In recent years, the Legislature has made progress on several water-related issues affecting Washington. It has passed laws separating water quality and water quantity issues, creating a two-line process for water right applications, protecting municipal water rights from relinquishment through non-use, and implementing the watershed planning process.

However, the water rights situation in our state isn't ideal. For water-rights holders, current law governing the use of water creates a great deal of uncertainty and encourages waste so a water right isn't lost.

Current law allows DOE to cancel a full or partial water right after five consecutive years of non-use. Exceptions include military service in a time of crisis, drought, irrigation reductions related to electricity supply and legal proceedings.

Senate Republicans support efforts to pass water right relinquishment reform legislation. It is important to create a less bureaucratic, more user-friendly method for water-right holders to appeal relinquishment.

Determining the appeals period for certain environmental appeals (SSB 5590)

The period for appealing decisions of the Pollution Control Hearings Board to superior court and for appealing civil penalties, orders, permits, and other actions to the board is within 30 days of the date of receipt of notice. Date of receipt means either five business days after the date of mailing or the date of actual receipt, if it can be proved by a preponderance of the evidence and is not later than 45 days from the date of mailing. A sworn affidavit or declaration is sufficient evidence, if unchallenged.

Under current law, there are different statutes dealing with appeals to the PCHB. These statutes aren't consistent regarding the period in which an appeal can be filed. For instance, in some statutes, the period starts when a notice is mailed, while in others, the period starts when notice is received.

Testified For: PCHB, AWB

Testified Against: None

Status: Signed into law

Establishing standards and procedures for water quantity data (E2SSB 5957)

This measure requires DOE to use credible data when taking certain actions required by the federal Clean Water Act and to develop a policy regarding the use of scientific research and literature, credible data criteria, and data collectors' training and experience.

The use of credible data is important since there are serious consequences and substantial costs when a body of water is considered impaired. An incorrect listing can have a huge impact, so scientific, defensible data is needed when making these decisions.

Testified For: Northwest Pulp and Paper Association, Washington Public Interest Research Group, Farm Bureau

Testified Against: Puyallup Tribe of Indians, Yakama Nation

Status: Delivered to governor

Allowing appointment of alternates to water conservancy boards (ESSB 6125)

This measure allows the appointment of alternate members on water conservancy boards, giving the boards flexibility to make timely decisions on water-right changes despite board commissioner absences.

Testified For: Lewis County Water Conservancy Board ***With Concerns:***

DOE With Questions: Allied Newspapers

Testified Against: none

Status: Signed into law

Concerning use classifications for irrigation district ditch and drainage facilities (SSB 6575)

This measure requires DOE to conduct a use attainment analysis of water bodies within a federal reclamation project under certain circumstances.

This procedure looks at whether an irrigation system can meet all of the irrigation needs and includes all of its uses without affecting water quality.

The U.S. Bureau of Reclamation (BOR) manages two reclamation projects in Eastern Washington – the Columbia Basin project includes more than 600,000 irrigated acres. The Yakima project includes six reservoirs that catch and hold spring runoff in the Cascades.

Testified For: *Washington State Water Resources Association, DOE*

With Concerns: *Washington Environmental Council*

Testified Against: *none*

Status: *Signed into law*

Eligibility for appointments to water conservancy boards (SHB 2307)

Two rural counties have found it difficult to find people eligible and interested in serving as commissioners of water conservancy boards. This bill makes more people eligible to be a non-water right holding member of a board.

In determining who is eligible to be appointed as a non-water right holding commissioner on a board, someone would not be considered to be a water right holder:

- If the person receives his or her water from a municipal water supplier;
- If the only water right held by the person is an “exempt well” right for residential use and that right is for water from a well located in a county of fewer than 150,000 people.

Testified For: *none*

Testified Against: *none*

Status: *Signed into law*

Changing water policy in regions with regulated reductions in aquifer levels (SHB 2504)

Conserved water from the Columbia Basin Project could be delivered to the deep well irrigators to help solve the problem of the declining Odessa aquifer. This measure authorizes DOE to enter into agreements allowing the delivery of water to deep well irrigated lands. **(SSB 6190)**

Testified For: *DOE, Water Resources Association, East Columbia Basin Irrigation District*

Testified Against: *None*

Status: *Signed into law*

Water rights for agriculture (SB 6486)

This measure creates a general agriculture use category for water rights. It exempts drinking water for livestock from the groundwater permitting process.

Testified For: none

Testified Against: none

Status: Died in Senate Natural Resources, Energy and Water Committee

Creating a water rights confirmation process (SB 6734)

This measure establishes a mandatory water right confirmation process for all existing rights (with some exceptions, like municipal water rights) in which the rights would be examined by a court-appointed referee and a quantity of use would be determined based on the previous 10 years of use. Under current law, a person's water rights can be forfeited if that water isn't used for five or more years, even if there is no intent to abandon that water right. The relinquished water reverts to the state.

Testified For: none

Testified Against: none

Status: Died in Senate Natural Resources, Energy and Water Committee

Creating a state water court system (SJR 8224)

This measure, if approved by Washington voters, amends the state constitution to authorize the creation of a water court. There currently isn't a court system in place to hear water-related cases in the areas where the water disputes originate. Many involved parties have to drive long distances to attend these water-related cases.

Testified For: none

Testified Against: none

Status: Died in Senate Natural Resources, Energy and Water Committee